

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

Senate Bill 274

BY SENATORS TRUMP AND WOELFEL

[Originating in the Committee on Health and Human
Resources; reported on February 16, 2022]

1 A BILL to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, relating to
2 requiring the secretary of the Department of Health and Human Resources to allocate
3 Child Protective Services workers by the Bureau of Social Services' district annually; and
4 reporting this allocation process to the Legislative Oversight Commission on Health and
5 Human Resources Accountability annually.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. COMMISSIONER OF HEALTH AND HUMAN SERVICES; POWERS,
DUTIES, AND RESPONSIBILITIES GENERALLY.**

§9-2-6. Powers of secretary.

1 (a) Within limits of state appropriations and federal grants and subject to provisions of
2 state and federal laws and regulations, the secretary, in addition to all other powers, duties, and
3 responsibilities granted and assigned to that office in this chapter and elsewhere by law, is
4 ~~authorized to~~ may:

5 (1) Promulgate, amend, revise, and rescind department rules respecting the organization
6 and government of the department and the execution and administration of those powers, duties,
7 and responsibilities granted and assigned by this chapter and elsewhere by law to the department
8 and the secretary.

9 (2) Promulgate, amend, revise, and rescind department rules and regulations respecting
10 qualifications for receiving the different classes of welfare assistance consistent with or permitted
11 by federal laws, rules, and policies, but not inconsistent with state law: *Provided*, That rules and
12 policies respecting qualifications shall permit the expenditure of state funds to pay for care
13 rendered in any birthing center licensed under the provisions of §16-2E-1 *et seq.* of this code by
14 a licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and
15 which care is within the scope of duties for such licensed nurse midwife or midwife as permitted
16 ~~by the provisions of section seven of said article~~ §30-15-7 of this code.

(3) Obtain by purchase or lease grounds, buildings, office, or other space, equipment, facilities, and services as may be necessary for the execution and administration of those powers, duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(4) Sign and execute in the name of the state by the ~~State~~ Department of Health and Human Resources any contract or agreement with the federal government or its agencies, other states, political subdivisions of this state, corporations, associations, partnerships, or individuals: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

(5) Sign and execute a contract to implement professional health care, managed care, actuarial and health care-related monitoring, quality review/utilization, claims processing, and independent professional consultant contracts for the Medicaid program: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains in full force and effect and the secretary retains sole authority to review, approve, and issue changes to contracts issued under the former purchasing process, and is responsible for challenges, disputes, protests, and legal actions related to such contracts.

(6) Establish such special funds as may be required by the federal Social Security Act, as amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of the benefits and provisions thereof relating to the federal-state assistance and federal assistance programs administered by the department and to make payments into and disbursements out of any such special fund or funds in accordance with the requirements of the federal Social Security Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state law and the objects and purposes of this chapter. In addition, the ~~State~~ Department of Health and Human Resources, through the secretary, is hereby authorized to accept any and all gifts or grants, whether in money, land, services, or materials, which gift or gifts, if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose of public assistance

43 programs. No part of this special fund ~~shall~~ may revert to the general revenue funds of this state.
44 No expenses incurred pursuant to this special fund ~~shall~~ may be a charge against the general
45 funds of this state.

46 (7) Establish within the department an Office of Inspector General for the purpose of
47 conducting and supervising investigations, performing inspections, evaluations, and review, and
48 providing quality control for the programs of the department. The Office of Inspector General shall
49 be headed by the Inspector General who shall report directly to the secretary. Neither the
50 secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector
51 General or his or her employees from initiating, carrying out, or completing any investigation,
52 inspection, evaluation, review, or other activity oversight of public integrity by the Office of the
53 Inspector General. The secretary shall place within the Office of Inspector General any function
54 he or she deems necessary. Qualification, compensation, and personnel practice relating to the
55 employees of the Office of the Inspector General, including that of the position of Inspector
56 General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and
57 rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office
58 of Inspector General.

59 (8) Provide at department expense a program of continuing professional, technical, and
60 specialized instruction for the personnel of the department.

61 (9) Pay from available funds all or part of the reasonable expenses incurred by a person
62 newly employed by the department in moving his household furniture, effects, and immediate
63 family from his or her place of residence in this state to his or her place of employment in this
64 state; and to pay from available funds all or part of the reasonable expenses incurred by a
65 department employee in moving his or her household furniture, effects, and immediate family as
66 a result of a reassignment of the employee which is considered desirable, advantageous to and
67 in the best interests of the state, but no part of the moving expenses of any one such employee
68 ~~shall~~ may be paid more frequently than once in 12 months or for any movement other than from

one place of employment in this state to another place of employment in this state.

(10) Establish a program to provide reimbursement to employees of the department whose items of personal property, as defined by the department by policy, are damaged during the course of employment or other work-related activity as a result of aggressive behavior by a client or patient receiving services from the department: *Provided*, That ~~such~~ the reimbursement is limited to a maximum amount of \$250 per claim.

(11) Establish and maintain such institutions as are necessary for the temporary care, maintenance, and training of children and other persons.

(12) Prepare and submit state plans which will meet the requirements of federal laws, rules governing federal-state assistance, and federal assistance, and which are not inconsistent with state law.

(13) Organize within the department a board of review, consisting of a chairman appointed by the secretary and as many assistants or employees of the department as may be determined by the secretary and as may be required by federal laws and rules respecting state assistance, federal-state assistance, and federal assistance, ~~such~~ the board of review to have such powers of a review nature and such additional powers as may be granted to it by the secretary and as may be required by federal laws and rules respecting federal-state assistance and federal assistance.

(14) Provide by rules review and appeal procedures within the Department of Health and Human Resources as may be required by applicable federal laws and rules respecting state assistance, federal-state assistance, and federal assistance, and as will provide applicants for, and recipients of, all classes of welfare assistance an opportunity to be heard by the board of review, a member thereof, or individuals designated by the board, upon claims involving denial, reduction, closure, delay, or other action or inaction pertaining to public assistance.

(15) Provide by rules, consistent with requirements of applicable federal laws and rules, application forms and application procedures for the various classes of public assistance.

(16) Provide locations for making applications for the various classes of public assistance.

(17) Provide a citizen or group of citizens an opportunity to file objections and to be heard upon objections to the grant of any class of public assistance.

(18) Delegate to the personnel of the department all powers and duties vested in the secretary, except the power and authority to sign contracts and agreements.

(19) Make such reports in such form and containing such information as may be required by applicable federal laws and rules respecting federal-state assistance and federal assistance.

(20) Invoke any legal, equitable, or special remedies for the enforcement of the provisions of this chapter.

(21) Require a provider, subgrantee, or other entity performing services on behalf of the department to comply with all applicable laws, rules, and written procedures pertaining to the program for which the entity is providing or coordinating services, including, but not limited to, policy manuals, statements of work, program instructions, or other similar agreements. When submitting a claim for payment, the entity shall certify that it has complied with all material conditions for payment. Knowingly and intentionally submitting a claim or billing for services performed in material violation of any law, rule, policy, or other written agreement shall constitute fraud and the agreement for provision of services shall terminate. The entity shall be required to repay the department for any payment under the program for which the provider was not entitled, regardless of whether the incorrect payment was the result of department error, fraud, or other cause. A demand for repayment or termination of agreement for provision of services shall be subject to the due process procedures pursuant to §29A-5-1 *et seq.* of this code. The provisions of this subsection do not apply to fraud in the Medicaid program.

(22) Develop a data analytics pilot program to identify potential fraud and help guide policy objectives to eliminate future fraud. The secretary shall submit a report containing the pilot program's results and recommendations to the Joint Committee on Government and Finance no later than December 31, 2020.

121 (b) Effective on the passage of this amendment made to this section during the 2022
122 Regular Session of the Legislature, the secretary shall allocate Child Protective Services workers
123 by the Bureau for Social Services' district annually and report the allocation process to the
124 Legislative Oversight Commission on Health and Human Resources Accountability by July 1 each
125 year.